



House of Representatives

General Assembly

File No. 302

February Session, 2004

House Bill No. 5517

House of Representatives, March 29, 2004

The Committee on Planning and Development reported through REP. WALLACE of the 109th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING RESPONSIBILITY FOR THE COSTS OF REPAIR OF DIVISION FENCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-51 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) If any person neglects to keep [his] a division fence in repair, the
4 party aggrieved may call on the selectmen to view it, who, if they find
5 it insufficient, shall immediately give written notice thereof to the
6 person bound to repair it, and shall also mail to the owner of any
7 mortgage upon land which is partly bounded by the fence in question
8 a written notice of an order to repair such fence. If none of the parties
9 interested, to whom notice has been given, makes such repairs within
10 fifteen days from the time of giving such notice, the party aggrieved
11 may make such repairs and recover of the person bound to repair it
12 double the cost of such repairs as estimated in writing by the
13 selectmen and also the fees of such selectmen. Such sums shall

14 constitute a lien upon such land against all persons interested therein,
15 provided such lien shall be recorded in the office of the town clerk of
16 the town in which such land is situated within sixty days from the time
17 of completing such repairs. Such liens may be foreclosed in the manner
18 provided for the foreclosure of mortgages.

19 (b) Notwithstanding the provisions of subsection (a) of this section,
20 the proprietor of land that is not used for agricultural purposes that
21 abuts land that is used for agricultural purposes shall not be required
22 to pay any costs of repair of a division fence unless such proprietor (1)
23 intentionally causes damage to the fence; (2) causes substantial
24 damage to the fence through negligence; (3) repeatedly engages in
25 conduct which damages the fence; or (4) repeatedly allows others to
26 trespass across the land and such persons cause damage to the fence
27 and the proprietor knows of such damage or should know of it.

This act shall take effect as follows:	
Section 1	October 1, 2004

PD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill limits certain property owners' liability for costs to repair divisional fences that abut land used for agricultural purposes. There is no related fiscal impact.

OLR Bill Analysis

HB 5517

AN ACT CONCERNING RESPONSIBILITY FOR THE COSTS OF REPAIR OF DIVISION FENCES**SUMMARY:**

The bill explicitly exempts certain property owners from paying any costs to repair a divisional fence as long as they did not cause any damage to it. A divisional fence runs along the boundary line between two parcels of land with different owners. Some statutes seem to require adjoining owners to share the cost of repairing these fences while others suggest that the owners must share the cost only if both have fences enclosing their respective properties.

The bill exempts a property owner from paying any repair costs if he does not farm his land but the owner of the land on the other side of the fence does. The first owner is not liable for the costs unless he:

1. intentionally damaged the fence;
2. caused substantial damage through negligence;
3. repeatedly acted in a way that damaged the fence; or
4. knew about, or should have known about, damage that was caused to the fence by others whom he repeatedly allowed to trespass across his land.

EFFECTIVE DATE: October 1, 2004

BACKGROUND***Repairing Divisional Fences***

The law requires adjoining property owners to share the cost of erecting and maintaining divisional fences, but is unclear as to when this requirement applies. One statute requires each adjoining proprietor to "make and maintain half of a divisional fence, the middle line of which shall be on the dividing line..." (CGS § 47-43).

But another statute suggests that this requirement applies only when both owners have erected fences enclosing their respective properties:

“If one proprietor or his successor in title makes the whole fence and the adjoining proprietor afterwards encloses his land, such adjoining proprietor shall purchase and maintain half of the divisional fence” (CGS § 47-49). Under this statute, the owner who erected his fence first could require the other owner to share the cost of erecting and maintaining that part of the fence that divides their properties when that owner erects a fence enclosing his property.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Report

Yea 13 Nay 3